

# Exhibit B

**Robert A. Klinck**

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**From:** Deeley, Elizabeth L. [edeeley@kirkland.com]  
**Sent:** Friday, August 17, 2012 3:18 PM  
**To:** Robert A. Klinck; Basile, James F.  
**Subject:** RE: Sambrel Holdings LLC v. Facebook, Inc.

Robert,

We disagree that it would be appropriate to submit additional briefing to the court on those cases, especially since none of them are new (and you already cited and discussed the [WhenU.com](#) case in your Reply brief), none of them involve any of the antitrust issues that the court addressed at the hearing, and the court made clear that there has already been a “tremendous amount of material filed with the court” on these issues. Facebook would not oppose Sambrel seeking leave to file a supplemental notice of authority of no more than 5 pages, provided that (i) any such leave is conditioned on Facebook having an opportunity to file a response of the same length, (ii) Sambrel does not actually submit the notice of supplemental authority to the court (as an attachment to the ex parte motion or otherwise) until the court has expressly granted leave to do so, and (iii) Sambrel notifies the Court of Facebook’s position (as described above) that it does not think Sambrel’s supplemental briefing is appropriate.

Let me know if you would like to discuss.

Best,  
Beth

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(415) 439-1861  
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**From:** Robert A. Klinck [<mailto:rklinck@kotchen.com>]  
**Sent:** Thursday, August 16, 2012 3:18 PM  
**To:** Basile, James F.; Deeley, Elizabeth L.  
**Subject:** Sambrel Holdings LLC v. Facebook, Inc.

Jim & Beth,

We intend to file an *Ex Parte* Application for Leave to File Notice of Supplemental Authority with the Court tomorrow. We intend to bring the court’s attention to four cases that are relevant to the issue of whether Facebook has any property rights in the visual representations that appear on its users’ computers: *Wells Fargo & Co. v. WhenU.com, Inc.*, 293 F. Supp. 2d 734 (E.D. Mich. 2003); *1-800 Contacts, Inc. v. WhenU.Com, Inc.*, 414 F.3d 400 (2d Cir. 2005); *U-Haul Int’l, Inc. v. WhenU.com, Inc.*, 279 F. Supp. 2d 723 (E.D. Va. 2003); *Lewis Galoob Toys, Inc. v. Nintendo of America, Inc.*, 964 F.2d 965 (9th Cir. 1992). In light of the Court’s focus on the property right issue at the oral argument, we believe that it is appropriate to bring these cases to the Court’s attention.

Please let me know whether Facebook will agree to Sambrel’s request for leave to file a Notice of Supplemental Authority. We obviously would agree that you would have the opportunity to file a response of equal length to our filing. I will be available to discuss this anytime tomorrow. You can reach me at 202-604-8662.

Bobby

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